PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($)

Complete if Known	
Application Number	09/879,446
Filing Date	06/11/2001
First Named Inventor	STEPHEN T. MACK
Examiner Name	Peng Ke
Art Unit	2174
Attorney Docket No.	ES-1003A

METHOD OF PAYMENT (check all that apply)

☑ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fee ($)	Fees Paid ($)
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 20 or HP =	_____ x	_____ =	_____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee ($)	Fee Paid ($)
_____ - 3 or HP =	_____ x	_____ =	_____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
_____	_____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee ($)	Fee Paid ($)
_____ - 100 =	_____ / 50 =	_____ (round up to a whole number) x	_____ =	_____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	
Other (e.g., late filing surcharge): Filing a Brief in Support of Appeal	$250

SUBMITTED BY

Signature	Robert S Kelly	Registration No. (Attorney/Agent) 25,278	Telephone 408-867-5648
Name (Print/Type)	ROBERT S. KELLY		Date 8/16/05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	
STEPHEN T. MACK et al	:	Group Art Unit 2174
Serial No. 09/879,446	:	Examiner: Peng Ke
Filed: June 11, 2001	:	
For: SYSTEM FOR CREATING ON A COMPUTER DISPLAY SCREEN COMPOSITE IMAGES FROM DIVERSE SOURCES	:	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 CFR 1.192

In the matter of the above identified application, the following Appeal Brief is hereby submitted in support of the Appeal of the final rejection of claims 4, 5 and 20-35, all of the pending claims of the subject application.

(1) Real party in interest

The real party in interest in the subject patent application is PeerImage Inc., a California corporation and a small business concern as defined by 37 CFR 1.9 (d).

(2) Related appeals and interferences

There are no related appeals or interferences known to appellants, the appellants' legal representative, or real party

in interest which will directly affect or be directly affected by or have a bearing on the Board's decision in the subject pending appeal.

(3) Status of Claims

Claims 4, 5 and 20-35 are presently pending in the application and are each printed separately in the Appendix to this Brief. All of such claims stand rejected.

(4) Status of Amendments

No amendment has been filed subsequent to the final rejection by the Examiner.

(5) Summary of Invention

An interactive system for permitting a user with a computer (18, Fig. 1; pg. 4, lines 17-20) and display screen (27, Fig. 1; pg. 5, lines 2-4) to design and generate, through a global computer information network connection (18a, 20a, Fig. 1; pg. 4, lines 17-20 and pg. 5, lines 4-9) with a server (20, Figs. 1 and 2; pg. 5, line 10 to pg. 6, line 20), a web page composite image including graphical images and text, said system comprising:

means (Figs. 3, 5 and 8; pg. 11, line 15 to pg. 13, line 18) for permitting the user to selectively create an outline of a shape out of a plurality of predetermined two-dimensional shapes within a predetermined area (70, Fig. 7; pg. 10, lines 10-13) on the display screen,

files (30, 32, 33, Fig. 2; pg. 5, line 10 to pg. 6, line 20) for producing a plurality of graphical images and lines of text stored at a server software storage (23, Fig. 2; pg. 5, lines 10-15) remote from the user,

means (34, 35, Figs. 2 and 10-13; pg. 8, lines 4-22 and pg. 15, line 4 to pg. 18, line 12) for permitting the user through a browser to selectively download said files for producing said graphical images and incorporating each selected graphical image into any selected position in said predetermined area on the display screen,

means (30, 34, 35, Figs. 2 and 9; pg. 8, lines 4-22 and pg. 13, line 19 to pg. 15, line 3) for permitting the user to selectively download a file for producing a line of text into any selected position in said predetermined area in the display screen and to selectively repeat the operation for subsequent lines of text, said means for producing a line of text including means (30, 34, 35, Figs. 2 and 9; pg. 13, line 19 to pg. 15, line 3) for permitting the user to originate the specific content of each line of text by typing it in on the display screen during the image creation process,

and means (30, 34, 35, Figs. 2 and 9; pg. 13, line 19 to pg. 14, line 18) for permitting the user to utilize a position indicating device (29, Fig. 1; pg. 5, lines 2-4) with said user's

computer to individually vary the sizes and relative positions of the lines of text, graphical images and shape within said predetermined area on the display screen,

whereby a complete composite image can be created by the user and modified by the user with the entire image being continuously seen on the user's display screen during its creation.

A system as described above wherein said means for permitting the user to download said files causes the framing representation (86a in Fig. 8, 98 in Fig. 9, and 122b in Fig. 12; pg. 12, lines 1-21; pg 14, lines 10-18; and pg. 17, lines 6-21) of each file to be initially located in a particular orientation at a specific position in said predetermined area on the display screen so that later changes by the user in such position will be recorded by the user for transmittal back to the server.

A system as described above including means (41, Fig. 2; pg. 5, line 20 to pg. 6, line 2) for storing said text and graphical image component parts of the composite image and the locations thereof within said predetermined area of the display screen as modified by said user in a computer/web protocol (pg. 8, lines 4-22) which includes vector scaling programming (pg. 20, lines 11-14).

An interactive system for permitting a user with a computer (18, Fig. 1; pg. 4, lines 17-20) and display screen (27, Fig. 1; pg. 5, lines 2-4) to design and generate, through a global communication network connection (18a, 20a, Fig. 1; pg. 4, lines 17-20 and pg. 5, lines 4-9) with a server (20, Figs. 1 and 2; pg. 5, line 10 to pg. 6, line 20), a web page composite image suitable for high quality printing, said image including graphical images and text, said system comprising:

means (Figs. 3, 5 and 7; pg. 10, lines 10-20) for permitting the user to selectively create said composite image within a predetermined area (70, Fig. 7; pg. 10, lines 10-13) on the display screen,

files (30, 32, 33, Fig. 2; pg. 5, line 10 to pg. 6, line 20) for producing a plurality of high resolution images and text stored at a server software storage area remote from the user,

means (34, 35, Figs. 2 and 10-13; pg. 8, lines 4-22 and pg. 15, line 4 to pg. 18, line 12) for permitting the user to selectively download through a browser said files for producing individual lines of text and graphical images and to incorporate said lines of text and selected graphical images into any selected position in said predetermined area on the display screen, said means for producing lines of text including means (92-94, Fig. 9; pg. 13, line 14 to pg. 14, line 18) for

permitting the user to originate the specific content of each line of text by typing it on the display screen during the image creating process,

means (30, 34, 35, Figs. 2 and 9; pg. 13, line 19 to pg. 14, line 18) for permitting the user to individually vary the sizes and relative positions of each line of text and each selected graphical image within said predetermined area of the display screen to create a complete composite image to the user's specifications,

means (32, 34, 52, Figs. 2, 3 and 14; pg. 7, line 16 to pg. 8, line 22 and pg. 18, lines 13-17) for transmitting from the user to the server said complete composite image in its selected component parts and their respective locations within the predetermined area of the display screen,

means (41, Fig. 2; pg. 5, line 20 to pg. 6, line 2) at the server for storing said component parts of the complete composite image in a computer/web protocol (pg. 8, lines 4-22) that permits the image to be output by the server in a variety of different formats,

and means (Figs. 3 and 5, pg. 20, lines 8-15) at the server utilizing said computer/web protocol for providing a high resolution image of said complete composite image suitable for high quality printing.

A method for permitting a user with a computer (18, Fig. 1; pg. 4, lines 17-20) and display screen (27, Fig. 1; pg. 5, lines 2-4) to create on-line with a server through his browser and a global communication network a composite image from diverse sources, said composite image being suitable for high quality printing output, said method comprising:

providing (pg. 6, lines 2-18) a collection of high resolution graphical images (32, 33, Fig. 2; pg. 5, line 15 to pg. 6, line 20) at the server and permitting said user to selectively download through his browser representations of various of said high resolution graphical images,

providing at the server a downloadable program (pg. 7, line 17 through pg. 8) through a browser to said user to permit the user to create said composite image in a predetermined area (70, Fig. 7; pg. 10, lines 10-13) on the user's display screen (27, Fig. 1; pg. 5, lines 2-4), said program including means (30, 34, 35, Figs. 2 and 9; pg. 13, line 19 to pg. 14, line 18) for permitting the user within said predetermined area of the display screen to vary the size of each selected graphical image and move it to any position in said predetermined area of the display screen, said program further including means (30, 34, 35, Figs. 2 and 9; pg. 8, lines 4-22 and pg. 13, line 19 to pg. 15, line 3) to permit the user to originate and sequentially add one or more

lines of text to the predetermined area of the display screen and to resize and individually selectively reposition each of said lines of text to any position within said predetermined area,

providing means (32, 34, 52, Figs. 2, 3 and 14; pg. 7, line 16 to pg. 8, line 22 and pg. 18, lines 13-17) for permitting the user to transmit the composite image back to the server with all changes in size and repositioning of each of the downloaded lines of text and graphical images being correlated to a specific initial location within the predetermined area(Fig. 8, pg. 12, lines 1-21; Fig. 9, pg. 14, lines 10-18; pg 16, lines 3-6; and Fig. 12, pg. 17, lines 6-21) on the display screen so that the composite image can be accurately recreated at the server,

and saving (pg. 5, line 20 to pg. 6, line 2) at the server the completed composite image from the user in each of its line of text and graphical image component parts so that the composite image can be recreated by the server as a high resolution image suitable for high quality printing.

(6) Issues

(1) Whether claims 4, 5 and 20-35, comprising all of the pending claims in the subject application, are unpatentable under 35 U.S.C. 103(a) over Sparks et al, U.S. Patent No. 6,167,382 in view of Takakura et al, U.S. Patent No. 5,752,053.

(2) Whether claims 22, 30 and 34 are unpatentable under 35 U.S.C. 103(a) over Sparks et al, U.S. Patent No. 6,167,382 in view of Takakura et al, U.S. Patent No. 5,752,053 and further in view of Ravela et al, U.S. Patent No. 5,987,456.

(7) Grouping of claims

In Group (1) above the claims do not stand and fall together. It is believed that independent claims 20, 28 and 33 are separately patentable and that the inventions set forth in claims 21 and 29 are separately patentable. The Summary of the Invention portion of the Brief sets forth claims 20, 21, 28 and 33 with specific references to the specification and drawings. Appropriate argument supportive of the separate patentability of these claims will be presented in the following Brief Item (8).

In Group (2) above the Summary of the Invention portion of the Brief sets forth claim 22 with specific references to the specification and drawings. Argument supportive of the patentability of this claim will be presented in the following Brief Item (8).

(8) Argument

Issue (1)

With regard to Issue (1) above, it is applicants' primary contention that the Examiner's proposed combination of the Sparks et al and Takakura et al patents to render the claims of the

subject application unpatentable is in error in that there is no teaching, motivation, or suggestion supplied by either of the cited patents to indicate that they could or should be combined as suggested by the Examiner. Such a requirement has long been the standard by which rejections under 35 U.S.C. 103(a) have been judged [See, e.g., In re Lee,61 USPQ2d 1430, 1433 (CAFC, 2002)]. Indeed, the teachings found in both of these patents, as will be specifically pointed out hereinafter, appear to suggest that the proposed combination of patents would not be desirable.

The primary cited prior art patent to Sparks et al discloses an interactive user/server system for creating a composite image on a web page under the control of the server except for the specific content of the incorporated individual images and text and with the server being able to print out a high resolution composite image as with the claimed invention. However, while the user can choose from a variety of graphical images and text, these are incorporated into the composite image in fixed templates (see, e.g., col. 5, lines 19-29 of the patent). It is important to note (see col. 2, lines 12-35) that the advantages of the Sparks et al system include the elimination of the need to create new art work and copy every time new advertising material is needed by the user thus saving time and cost. This is accomplished by the use of shells and templates which control the

user's options as set forth in the patent from col. 8, line 30 to col. 10, line 53.

The patent to Takakura et al, used as a secondary reference in the rejection of each of the claims, discloses a self-contained document processing apparatus and computer program which permits a user to manipulate graphic images and text in real time to achieve a final composite image on a display screen. It is not an interactive system in any sense. It is important to note that the Takakura et al system is not truly a "free form" system (as claimed by applicants wherein each image component can be placed in any position in the composite image) since the text and images are incorporated into the composite image through a series of display grids which can be selected and sized according to the type of input component, e.g., text, graphic, etc. (note the description in col. 17, line 29 to col. 19, line 35). While a display screen is part of the Takakura et al document processing apparatus for permitting real time construction of a composite image, the input of the component parts is controlled by the preselected and sized grids with a keyboard or pointing device being used to select the particular grid, its size and its location by means of an on-screen menu (Fig. 6C); there is no click-and-drag feature present in Takakura et al for moving the

component parts of the composite image from one position to another.

From the foregoing it will be seen that the primary cited prior art reference, Sparks et al, not only does not suggest that it might be modified to include those claimed elements which the Examiner admits it lacks (see Examiner's Final Rejection, page 4, lines 9-21) but the clear teaching of the patent (see Sparks et al, col. 1, line 66 to col. 2, line 35) is to use templates to provide cost and time savings to the users. This is directly contrary to the "free form" system of the present invention wherein each component part of the invention can be moved to any part of the composite image.

From the foregoing it will also be seen that there is no suggestion in Takakura et al that the grid location system for determining the positioning of the composite image component parts be utilized in an interactive user/server system. The apparatus and computer program of Takakura et al is a self-contained, stand alone system specifically designed for document production.

Thus, it is believed that there is no suggestion in the prior art to support the Sparks et al/Takakura et al combination as outlined by the Examiner and that the rejection of the claims of the present application upon such combination of prior art

references under 35 U.S.C. 103(a) is in error and should be reversed.

In addition to the inappropriateness of the suggested combination of the Sparks et al and Takakura et al systems and methods, it is believed that each of independent claims 20, 28 and 33 is independently patentable for the following reasons.

Argument for claim 20

Claim 20 calls for (lines 4-7) "means for permitting the user to selectively create an outline of a shape out of a plurality of predetermined two-dimensional shapes within a predetermined area on the display screen," and also includes the recitation (lines 18-20) of "means for permitting the user to utilize a position indicating device with said user's computer to individually vary the sizes, and relative positions of the lines of text, graphical images and **shape** ------" (emphasis added). As will be specifically pointed out in the following two paragraphs, each of these limitations is not shown or suggested by either of the cited prior art patents.

The Examiner has taken the position (pg. 3, lines 19-22 of the Final Rejection) that the "shells" referred to in col. 5, lines 22-27 of the Sparks et al patent, comprise the shape (86a, Fig.8) set forth in appellants' claim 20. However, as the cited text makes quite clear, the shells of Sparks et al are fixed

templates containing fixed slots with the user being able to insert selected text or images of his choosing into the slots. Even if such a shell could be considered "a shape" within the context of the claim and appellants' specification, it could quite clearly not be capable of being varied in size and relative position on the display screen.

Furthermore, claim 20 specifies (lines 10-12) "means for permitting the user **through a browser** to selectively download said files for producing said graphical images and incorporating each selected graphical image into any selected position in said predetermined area on the display screen," (emphasis added) and (lines 13, 14) "means for permitting the user to selectively download a file for producing a line of text into any selected position in said predetermined area in the display screen------". The Examiner has admitted that Sparks et al do not teach these elements (page 4, lines 9-21 of the Final Rejection) and thereby relies of the secondary reference to Takakura et al (page 4, line 22 to page 5, line 18 of the Final Rejection) to supply such teaching. However, as can be seen from a careful reading of the two aforelisted claim elements, each requires that the component (text or graphical image) be incorporated "into **any** (emphasis added) selected position in said predetermined area in the display screen" . As pointed out previously, the Takakura et al

system utilizes "grids" or overlays to locate the graphics and text within the composite image which places a limitation on the positioning of the components within the composite image as compared with the claimed elements which (within the pixel resolution of the display screen) can truly place such components in "any" position within the composite image. Furthermore, it is noted that the lines of text in claim 20 are downloaded "through a browser"; clearly, there is no browser used or contemplated by the teaching of Takakura et al. For the foregoing reasons, claim 20 is believed to further patentably distinguish over the cited combination of prior patents to Sparks et al and Takakura et al under 35 U.S.C. 103(a).

Argument for Claim 28

Claim 28 calls for (lines 9-12) "means for permitting the user to selectively download **through a browser** said files for producing individual lines of text and graphical images and to incorporate said lines of text and selected graphical images into **any** selected position in said predetermined area on the display screen," (emphasis added). The Examiner has admitted that the primary patent to Sparks et al does not teach the above-cited claim element (see page 4, lines 9-14 and page 6, lines 19-20 of the Final Rejection), and for the same reasons given with respect to claim 20 it is submitted that the patent to Takakura et al

also does not teach or suggest downloading "through a browser" or placing the text and images into "any" selected position in the composite image.

Furthermore, claim 28 specifies (lines 18-20) "means for transmitting from the user to the server said complete composite image in its selected component parts **and their respective locations** within the predetermined area of the display screen," (emphasis added). As pointed out above, the locations of each component part of the composite image are specified as being placed "into any selected position" within the composite image; thus, the information which is transmitted from user to the server in the aforesaid claim 28 clause is the positioning information due to the user's movement of the component parts into the composite image. The Examiner has not specified how the aforementioned clause reads on the cited prior art, but it is presumed that he is using the Sparks et al patent since this is the only one which shows an interactive (user/server) system. It will be noted, however, that Sparks et al utilize fixed templates with fixed slots (col. 5, lines 19-29) so that no positioning information is required since the slots cannot be moved. Hence, it is not believed that Sparks et al teaches or suggests the aforesaid means clause.

For the foregoing reasons, claim 28 is further believed to patentably distinguish over the cited combination of Sparks et al and Takakura et al under 35 U.S.C. 103(a).

Argument for Claim 33

Claim 33 is a method claim in contrast to the apparatus claims 20 and 28 previously discussed. The Examiner has not specifically commented upon the claimed method steps of claim 33 and has apparently taken the position that this claim merely restates the inventions set forth in claims 20 and 28 in terms of a method and is thus unpatentable under 35 U.S.C. 103(a) in view of his proposed combination of the Sparks et al and Takakura et al disclosures. For the reasons set forth hereinbefore, it is believed that the Examiner's proposed combination of the Sparks et al and Takakura et al structures to render the claims of the present application unpaentable is in error.

Furthermore, claim 33 calls for (lines 8-16) "providing at the server a downloadable program through a browser to said user to permit the user to create said composite image in a predetermined area on the user's display screen, said program including means for permitting the user within said predetermined area of the display screen to vary the size of each selected graphical image and move it to **any** position in said predetermined area of the display screen, said program further including means

to permit the user to originate and sequentially add one or more lines of text to the predetermined area of the display screen and to **resize and individually selectively reposition** each of said lines of text to **any** position within said predetermined area," (emphasis added). Neither of the cited patents to Sparks et al or Takakura et al teach or suggest this method step since both lack that portion of the claim description emphasized in bold type above. Thus, as outlined previously, Sparks et al uses a fixed template or shell with fixed slots (col. 5, lines 16-29) whereby the graphical images cannot be moved to <u>any</u> position in the composite image and whereby the lines of text cannot be resized or individually selectively repositioned. Also, as previously outlined, Takakura et al uses preselected grids 42 to locate the graphical images and text within the composite image. Such grids limit the desired positioning of the component parts of the image and, more importantly, there is no suggestion of any movement or resizing of the image components since the selected grid and grid points by the user fully determine the final location and size of the incorporated image component (Figs. 6A-6G, col. 6, lines 26-56).

Furthermore, claim 33 also includes (lines 17-21) the method step of "providing means for permitting the user to transmit the composite image back to the server with all changes in size and

repositioning of each of the downloaded lines of text and graphical images being correlated to a specific initial location within the predetermined area on the display screen so that the composite image can be accurately recreated at the server,". The fixed slot/template arrangement of Sparks et al clearly does not meet this claim limitation since "changes in size and repositioning of each of the downloaded lines of text and graphical images" are not contemplated. Also, it will be clear that the fixed grid 42 arrangement of Takakura et al does not contemplate such "changes in size and repositioning".

For the foregoing reasons, claim 33 is further believed to be patentable over the prior patents to Sparks et al and Takakura et al under 35 U.S.C. 103(a) whether such patents be considered singly or in combination.

Argument for claim 21

Claim 21, which stands rejected as being unpatentable over Sparks et al in view of Takakura et al, is believed to be separately patentable for the following reason. This dependent claim states "said means for permitting the user to download said files causes the framing representation of each file to be initially located in a particular orientation at a specific position in said predetermined area on the display screen so that later changes by the user in such position will be recorded by

the user for transmittal back to the server". The Examiner has taken the position (page 5, line 19 to page 6, line 2 of the Final Rejection) that the claim is taught by the system of Sparks et al and further states (pg. 6 of Final Rejection) that "It is inherent once the user has confirmed the modification to the template, the modification is upload (sic) back to the server". Claim 21 requires "that later changes in (the initial downloaded) position will be recorded by the user for transmittal back to the server". In contrast thereto, the Sparks et al system uses a fixed template where there can be no changes either in orientation position or spatial position of any downloaded image component within the confines of the composite image. The Examiner's sole comment (quoted above) on the application of the Sparks et al disclosure to claim 21 apparently suggests a "modification to the template" which is uploaded to the server; however, there is no modification to the template and certainly no modification of its spatial position or orientation. The only "modification" which the Examiner could be referring to is the filling in of one or more fixed slots in the template with the selected image component (text or graphic), and it is not seen how such could be considered "changes ----in (the framing representation) position" within the context of claim 21 particularly as interpreted by the specification and drawings of

appellants' patent application. For the foregoing reason, claim 21 is believed to be separately patentable and to distinguish over the cited prior art patents to Sparks et al and Takakura et al under 35 U.S.C. 103(a).

Issue (2) - Argument for Claim 22

With respect to Issue (2) in Brief Item (6), claims 22, 30 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sparks et al, U.S. Patent No. 6,167,382 in view of Takakura et al, U.S. Patent No. 5,752,053 and further in view of Ravela et al, U.S. Patent No. 5,987,456. Claim 22 calls for "means for storing said text and graphical image component parts of the composite image and the locations thereof within said predetermined area of the display screen as modified by said user in a computer/web protocol which includes vector scaling programming". The Examiner has taken the position (page 7, lines 11-17 of the Final Rejection) that "It would have been obvious to an artisan at the time of the invention to include Ravela et al's teaching with method of Spark and Takaura (sic) in order to increase retrieval sped of downloading or uploading of a (sic) image". It is appellants' contention that there is no showing in either the secondary patent to Ravela et al or in either of the previously discussed patents to Sparks et al and Takakura et al [See In re Lee, (supra)] of a teaching, motivation, or suggestion

to select and combine the Ravela et al reference with the Sparks et al and Takakura et al references to rely on as evidence of obviousness under 35 U.S.C. 103(a).

First, it is pointed out that neither of the patents to Sparks et al or Takakura et al would suggest the use of vector scaling programming. As previously discussed at length, the Sparks et al system uses a fixed template with a fixed slot arrangement; thus, the location of the image component parts for each and every composite image are precisely fixed. There can be no movement of an image component to an any arbitrary position in the composite image and therefore no need for vector scaling programming. Also, as previously discussed, the Takakura et al system uses various grids 40, 42 (Fig. 3D) with preset and predetermined points that define the relative origin position and interval position of the elements of the image component (see col. 5, line 54 to col. 6, line 2). Furthermore, the Takakura et al system is a self-contained program operating with a display screen and thus can use the conventional pixel-by-pixel approach for locating the image elements with no need for vector scaling programming.

Finally, the newly cited patent to Ravela et al contains no suggestion that the vector scaling programming disclosed therein would have any use in the Sparks et al or Takakura et al systems.

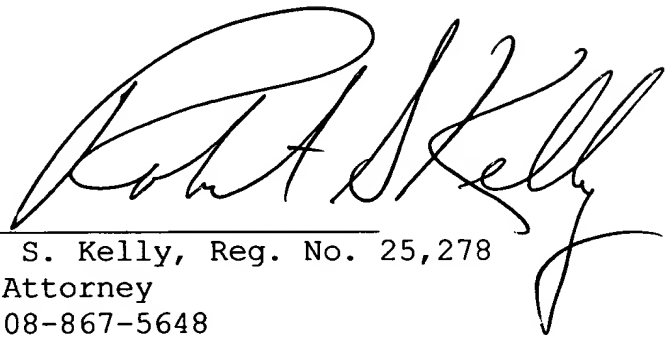
The Ravela et al patent discloses a method of image retrieval using sets of database images constructed from a query image with the vector scaling programming being used and associated with particularly chosen points in the query image and with either single scale or multiscale processing procedures being used to identify images matching the query image. There is no suggestion or teaching to be found in the Ravela et al patent that the vector scaling programming disclosed therein could find some use in the document processing apparatus of Takakura et al or in the advertising material designing apparatus of Sparks et al.

In view of the foregoing it is submitted that the Examiner's rejection of claims 22, 30 and 34 under 35 U.S.C. 103(a) is in error.

In view of the foregoing argument, it is submitted that each of presently pending claims 4, 5 and 20-35 patentably distinguishes over the cited prior art as applied by the Examiner in the Final Rejection of such claims and that the Board should therefore reverse such Final Rejection and remand the case to the Examiner for further appropriate action.

Respectfully submitted,

STEPHEN T. MACK et al



By:_____
Robert S. Kelly, Reg. No. 25,278
Their Attorney
Tel. 408-867-5648

Aug. 6, 2005

Appendix

Claim 4: A system according to claim 20 wherein said graphical images downloadable from said server are in the form of a plurality of different categories of similar types of images with a number of different selections being provided in each category, and means for permitting the user to select desired images from one or more categories.

Claim 5: A system according to claim 4 wherein one of said categories includes various types of frames and borders for said composite image, said graphical images including frame or border segments which can be incorporated into the composite image to form a border or frame about other graphical images or lines of text incorporated into the composite image.

Claim 20: An interactive system for permitting a user with a computer and display screen to design and generate, through a global computer information network connection with a server, a web page composite image including graphical images and text, said system comprising:

means for permitting the user to selectively create an outline of a shape out of a plurality of predetermined two-dimensional shapes within a predetermined area on the display screen,

files for producing a plurality of graphical images and lines of text stored at a server software storage remote from the user,

means for permitting the user through a browser to selectively download said files for producing said graphical images and incorporating each selected graphical image into any selected position in said predetermined area on the display screen,

means for permitting the user to selectively download a file for producing a line of text into any selected position in said predetermined area in the display screen and to selectively repeat the operation for subsequent lines of text, said means for producing a line of text including means for permitting the user to originate the specific content of each line of text by typing it in on the display screen during the image creation process,

and means for permitting the user to utilize a position indicating device with said user's computer to individually vary the sizes and relative positions of the lines of text, graphical images and shape within said predetermined area on the display screen,

whereby a complete composite image can be created by the user and modified by the user with the entire image being continuously seen on the user's display screen during its creation.

Claim 21: A system according to claim 20 wherein said means for permitting the user to download said files causes the framing representation of each file to be initially located in a particular orientation at a specific position in said predetermined area on the display screen so that later changes by the user in such position will be recorded by the user for transmittal back to the server.

Claim 22: A system according to claim 21 including means for storing said text and graphical image component parts of the composite image and the locations thereof within said predetermined area of the display screen as modified by said user in a computer/web protocol which includes vector scaling programming.

Claim 23: A system according to claim 22 wherein said computer/web protocol is an XML code.

Claim 24: A system according to claim 20 including means for permitting the user to upload graphical images into the files for producing graphical images at the server so that the user can utilize his own graphical images in the composite image.

Claim 25: A system according to claim 20 including means for permitting the user to selectively change the color within the selected shape.

Claim 26: A system according to claim 25 including means for permitting the user to selectively add a border to said selected shape.

Claim 27: A system according to claim 20 including means for permitting the user to vary the relative proportions of the selectively created shape within said predetermined area on the display screen.

Claim 28: An interactive system for permitting a user with a computer and display screen to design and generate, through a global communication network connection with a server, a web page composite image suitable for high quality printing, said image including graphical images and text, said system comprising:

means for permitting the user to selectively create said composite image within a predetermined area on the display screen,

files for producing a plurality of high resolution images and text stored at a server software storage area remote from the user,

means for permitting the user to selectively download through a browser said files for producing individual lines of text and graphical images and to incorporate said lines of text and selected graphical images into any selected position in said predetermined area on the display screen, said means for producing lines of text including means for

permitting the user to originate the specific content of each line of text by typing it on the display screen during the image creating process.

means for permitting the user to individually vary the sizes and relative positions of each line of text and each selected graphical image within said predetermined area of the display screen to create a complete composite image to the user's specifications,

means for transmitting from the user to the server said complete composite image in its selected component parts and their respective locations within the predetermined area of the display screen,

means at the server for storing said component parts of the complete composite image in a computer/web protocol that permits the image to be output by the server in a variety of different formats,

and means at the server utilizing said computer/web protocol for providing a high resolution image of said complete composite image suitable for high quality printing.

[Note: There is a typographical error in claim 28; the period at the end of line 14 should obviously be a comma.]

Claim 29: A system according to claim 28 wherein said means for permitting the user to download said files causes the framing representation of each file to be initially located in a particular orientation at a specific position in said predetermined area on the display screen so that later changes by the user in such position will be recorded by the user for transmittal back to the server.

Claim 30: A system according to claim 29 wherein said computer/web protocol includes vector scaling programming.

Claim 31: A system according to claim 28 wherein said high resolution images are 300 dpi or better and said low resolution images are less than 100 dpi.

Claim 32: A system according to claim 28 wherein said graphical images include digital photographic images initially uploaded from the user to the server.

Claim 33: A method for permitting a user with a computer and display screen to create on-line with a server through his browser and a global communication network a composite image from diverse sources, said composite image being suitable for high quality printing output, said method comprising:

providing a collection of high resolution graphical images at the server and permitting said user to selectively download through his browser representations of various of said high resolution graphical images,

providing at the server a downloadable program through a browser to said user to permit the user to create said composite image in a predetermined area on the user's display screen, said program including means for permitting the user within said predetermined area of the display screen to vary the size of each selected graphical image and move it to any position in said predetermined area of the display screen, said program further including means to permit the user to originate and sequentially add one or more lines of text to the predetermined area of the display screen and to resize and individually selectively reposition each of said lines of text to any position within said predetermined area,

providing means for permitting the user to transmit the composite image back to the server with all changes in size and repositioning of each of the downloaded lines of text and graphical images being correlated to a specific initial location within the

predetermined area on the display screen so that the composite image can be accurately recreated at the server,

and saving at the server the completed composite image from the user in each of its line of text and graphical image component parts so that the composite image can be recreated by the server as a high resolution image suitable for high quality printing.

Claim 34: A method according to claim 33 wherein the means for permitting the user to transport the composite image back to the server comprises a computer/web protocol which includes vector scaling programming.

Claim 35: A method according to claim 34 wherein said computer/web protocol is an XML code.